

# Extraterritorial Migration Control

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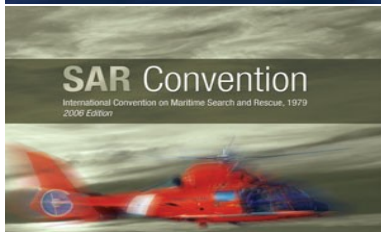
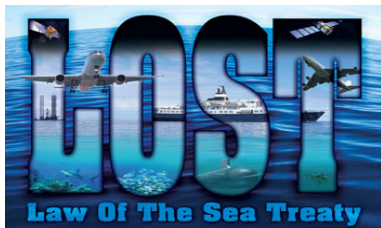
# Roadmap

- 1 Key story: Extraterritorial Migration Control
- 2 Relevant ILs: Sea vs. Heart
  - UN Convention on the Law of the Sea (UNCLOS)
  - Int'l Convention on Maritime Search and Rescue
  - Refugee Convention
- 3 What would you do?: The Case of *Seahaven*

# What happened in Christmas Island?



# One incident, Multiple legal options



# 1. UN Convention on the Law of the Sea (UNCLOS)

- Territorial Sea, Contiguous Zone, High Seas
- Enforcement: Binding third-party settlement
  - the International Tribunal for the Law of the Sea
  - the International Court of Justice
  - special arbitration tribunals with expertise in specific types of disputes
  - other binding arbitration procedures
- Issue: Can *Australia* conduct law enforcement operation in the contiguous zone? Only based on the protective principle

## 2. Search and Rescue Convention

- Required to cooperate with other states and coordinate responses to calls of **distress**
- Duties to transfer individuals to a seaworthy vessel or a place of safety
- No requirement on allowing rescued individuals into Seahaven's territory
- Enforcement: No binding procedures
- Issue: Did *Australia* transfer rescued individuals to a safe place? Were they in distress?

### 3. Refugee Convention

- Without a refugee claim, if the individual is found to meet the definition of a refugee, he/she is entitled to a range of protections
- Non-refoulement (Direct - Indirect)
- Enforcement: Technically, the ICJ could be asked to settle a dispute on interpretation. The UNHCR only a facilitative role
- Issue: Did *Australia* conduct preliminary screening process? Is the Refugee Convention applicable in the contiguous zone?

## 4. CAT





# What happened? Operation Sovereign Borders in *Seahaven*

- A lifeboat was towed by a Seahaven's warship under Operation Sovereign Borders in the high seas
- The footage was leaked and went viral on the web
- The PM, Liberal Party leader, and Mayor of Patriot City have a meeting to discuss whether to continue the Operation

# Discussion

- PMs: Why did you make certain decision(s)?
- Mayors and Liberal party leaders: What strategies did you use to convince the PMs?
- Compare your guidelines with other PMs/party leaders/mayors

## All the scenarios are the same except . . .

- Group 1: Party to human rights treaties
- Group 2: Reputation (UNGA)
- Group 3: No treatment